Bill as it became after passing through Int. in Cmte's hands 12/6/94

BILL. [1894.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as *The Dominion Irrigation Act*, and shall apply to and be in force throughout the North-west Territories.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(*a.*) The expression "Minister" means the Minister of the Interior;

(*b.*) The expression "agent" means the Registrar of the Lands Registration District in which the land or water are situated.

(*c.*) The expression "Dominion Land Surveyor" means a surveyor duly authorized, under the provisions of *The Dominion Lands Act*, to survey Dominion lands;

(*d.*) The expression "company" means any incorporated company, the objects and powers of which extend to or include the construction or operation of irrigation or other works under this Act or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes, and includes also any person who has been authorized or has applied or is about to apply for authority to construct and operate such works or carry on such business.

(*e.*) The expression "works" shall mean and include any dykes, dams, weirs, flood-gates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps and any contrivance for carrying or conducting water, subterranean galleries, artesian wells or other works which are authorized to be constructed under the provisions of this Act.

(*f.*) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit is the discharge of one cubic foot of water per second.

3. The right to the use of all water at any time in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water whether surface or subterranean shall, for the purposes of this Act, in every case be deemed to be vested in the Crown until the contrary be proved by establishing any other right than that of the Crown to the use of such water; and save in the exercise of any legal right existing at the time of such diversion or use, no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or or other body of water whether surface or subterranean otherwise than under the provisions of this Act.

4. No grant by the Crown of lands in the North-west Territories or of any estate or interest therein shall vest in the grantee any exclusive or other property or interest in or any exclusive right or privilege with respect to any lake, river, stream or other body of water whether surface or subterranean, or in or with respect to the water contained or flowing therein, or the land forming the bed or shore thereof.

5. After the passing of this Act no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water whether surface or subterranean, shall be acquired by any riparian owner or any other person by length of use or otherwise than as the same may be acquired or conferred under the provisions of this Act.

6. Any person who holds water rights of a class similar to those which may be acquired under this Act, or which with or without authority has constructed or is operating works for the utilization of water, shall obtain a license or authorization under this Act within twelve months from the date of the passing of this Act. If such license or authorization is obtained within the time limited, the exercise of such rights may thereafter be continued, and such works may be carried on under the provisions of this Act, otherwise such rights or works, and all the interest of such person therein, shall without any demand or proceeding be absolutely forfeited to Her Majesty and may be disposed of or dealt with as the Governor in Council may see fit.

The application for such license or authorization shall be made in the same manner as for other licenses or authorization under this Act, and the like proceedings shall be had thereon and the like information furnished in connection therewith.

7. Any water the property in which is vested in the Crown may be acquired, for domestic, irrigation, or other purposes, without regard to deterioration in quality or diminution in quantity, upon application therefor as hereinafter provided, and all applications made in accordance with the provisions of this Act shall have precedence, according to the date of filing the same with the agent, if for the same purpose, but not otherwise. The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean household and sanitary purposes and the watering of stock, but shall not include the sale or barter of water for such purposes; second, irrigation purposes; and, third, other purposes.

Applications shall have precedence in this order irrespective of the date of filing, so that all applications for domestic purposes shall have precedence of all those for irrigation and other purposes, and all applications for irrigation purposes shall have precedence of all those for purposes within the third class.

Provided that no application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes, and that when any person abandons or ceases to use any waters acquired by him for the purposes for which the same were acquired, or wastes the same, his right shall cease.

8. Any person contemplating or projecting any works under this Act, may upon submitting a general description of such works and upon payment of a fee of obtain from the agent a license to do the necessary preliminary work in connection with the location of such works, and after he obtains such license may with such assistants as may be necessary enter into and upon any public or private lands to take levels, make surveys, and do other necessary work in connection with such location, doing no unnecessary damage.

9. Any company applying for a license or authorization under this Act shall file with the Minister and the agent a memorial setting forth the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the extent of the company's subscribed capital and amount of paid up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated. If the applicant be not an incorporated company, the memorial shall set forth his name, residence and occupation, and such particulars as to his financial standing as shall establish to the satisfaction of the Minister his ability

to carry out the proposed undertaking. The memorial shall also state the name of any river, stream or other source of supply from which water is to be diverted, the extent of settlement along or in the vicinity of such river, stream or other source of water supply; the probable quantity of water to be used, and the point of diversion; the works proposed to be constructed for the purposes of the undertaking, and the locality of the same, as near as may be; the purpose to which the said water is to be applied, and the proposed rate to be charged for it; the probable number of consumers; the probable quantity of land that may be beneficially irrigated; the character, description and value of such land in its present state, including improvements, and such other and further particulars as are needful to a full understanding of the scheme. Attached to the memorial shall be a general map or plan on a scale of not less than one inch ~~equal~~ to half a mile showing the tract to be served by such water, the location of all rivers, streams and other sources of water supply therein, and the probable location of the proposed works. Also the position and area of all ponds, reservoirs or basins intended to be created for the purpose of storing water or which may have that effect.

(1.) There shall also be filed with the memorial plans in detail of all bridges or culverts necessary for road or farm crossings over or under the works of the company, also plans in detail of flumes, headworks, dams or other structures for the diversion or use of water, such plans to be on a scale of not less than one inch ~~equal~~ to four feet.

(2.) In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second, in addition to the above information the applicants shall furnish the following maps or plans:

(*a.*) A longitudinal profile of the ditch, showing the bottom and the proposed surface water line. The horizontal scale of this plan shall be not less than one inch ~~equal~~ to four hundred feet, and the vertical scale not less than one inch ~~equal~~ to twenty feet.

(*b.*) A plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side-hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. The plan shall be drawn on a horizontal and vertical scale of one inch ~~equal~~ to twenty feet.

(3.) Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply or in order to create a pond, reservoir or basin of water anywhere, or which may have that effect, shall be prepared on a longitudinal scale of not less than one inch ~~equal~~ to one hundred feet, and for cross-sections on a scale of not less than one inch ~~equal~~ to twenty feet, and shall show what material is intended to be used and how placed in such works. The timber, brush, stone, brick or other material used in such works shall be shown in detail on a plan the scale of which shall be not less than one inch ~~equal~~ to four feet.

(4.) Cross-section maps or plans showing the surface of the ground under such pond, reservoir or basin of water, and also the surface of the water proposed to be held in the same; the horizontal scale of said maps or plans shall be not less than one inch ~~equal~~ to one hundred feet; and the vertical scale shall be not less than one inch ~~equal~~ to twenty feet, and a sufficient number of lines of levels shown, so that the contents of the pond, reservoir or basin of water can be accurately determined. If the maps or plans show the levels by contour lines, they shall be on a scale sufficiently large ~~so~~ that the contour lines, showing a vertical distance between them not exceeding one foot, can be accurately delineated. The maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water, and the manner in which affected, and shall show in detail such other particulars as the Minister or Governor in Council ~~may see~~ fit to order; and there shall also be furnished a plan, on a scale of not less than one inch ~~equal~~ to four feet, showing the proposed manner of controlling and drawing off the water from any such pond, reservoir, or basin.

10. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant be a company, by the executive officers thereof, such of the maps or plans as are intended to show the land to be affected by the works being also signed and certified correct by a Dominion Land Surveyor, and shall be filed one copy with the Minister and the ~~second~~ copy with the agent, and the same or a true copy thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent. In any case where he thinks proper, the Minister may direct that a copy be also filed in such other place or with such other official or person as he ~~may name~~ for that purpose and ~~be there~~ open to public inspection. Public notice of such filing, which notice shall contain a statement of the nature of the rights applied for and the general location and character of the proposed works, shall forthwith be given by the applicant in the *Canada Gazette*, and not less than once a week in some newspaper published in the neighbourhood of the proposed works and to be named by the agent, for a period of not less than thirty days nor more than ninety days, as the Minister ~~may~~ determine, within which time ~~any and~~ all objections to the proposed works shall be forwarded to the Minister. The Minister shall consider all objections filed and report thereon to the Governor in Council, who may thereupon by Order in Council authorize the construction of said works with such changes or variations as may be deemed necessary.

(2.) Any works authorized under this Act shall if the Minister so determines be constructed subject to inspection during construction from time to time, and on completion, and at any time thereafter, by an officer to be named by the Minister, and the cost of such inspection or such portion thereof as the Minister ~~may decide~~ shall be borne by the company constructing such works.

(3.) Should any person residing on or owning land in the neighbourhood of any works either completed or in course of construction apply to the Minister in writing desiring an inspection of such works the Minister may order an inspection thereof.

(4.) The Minister may require the applicant for inspection to make a deposit of such sum of money as the Minister ~~may think~~ necessary to pay the expenses of an inspection, and in case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit.

(5.) In case the company is required by the Minister to pay the expenses of an inspection or any part thereof, such payment may be enforced as a debt due Her Majesty.

(6.) Upon any inspection hereunder the Minister may order the company to make any addition or alteration which he ~~may consider~~ necessary for their security to or in any works of the company, and non-compliance with such order may be dealt with in the same manner as is provided with respect to an order of the Minister under section 20 of this Act.

11. No work shall be commenced until the approval of the Governor in Council has been signified by public notice in the *Canada Gazette* and some newspaper published in the neighbourhood of the proposed works and named by the Minister, which notice shall set forth the particulars mentioned in the memorial, with such changes or variations as the Governor in Council ~~may see~~ fit to order, and shall specify a time within which such works shall be completed. Such notice shall be published in not less than two successive issues of such newspaper, and shall be the authority for proceeding with the work. A copy of the notice shall also be recorded in a book specially kept for that purpose by the agent in the office for his district, and this record shall remain open for public inspection. If

either the lands on which the water is to be applied or the waters to be used therefor are not confined to the territory assigned to any one agent, a record must be filed with each agent in whose territory any part thereof is situate.

(2.) Any changes and variations ordered by the Governor in Council regarding the plans of the proposed works must be filed by the applicant in the office of the agent and form a portion of the record open for public inspection.

12. No material deviation shall be made from the plans filed without permission, and upon any question arising as to whether any deviation is material or otherwise the same shall be decided by the Minister or such officer as he may designate.

13. The company, immediately after the last publication of such last mentioned notice, may proceed with the execution and construction of the works authorized, and for the purposes of such execution and construction shall have the powers conferred by the Railway Act upon railway companies so far as the same are applicable to the undertaking of the company, and are not inconsistent with the provisions of this Act or with the authority given to the company, the provision conferring such powers being taken for this purpose to refer to any work of the company where in the said Act they refer to the railway.

14. The construction of any work authorized under this Act shall be commenced not later than two months after the last publication of such last-mentioned notice, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose. The Minister or such officer as he may designate, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour. Should any unforeseen disaster intervene to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the Governor in Council may authorize an extension of time for the commencement or completion of the works. At the time limited for the completion of the works, the rights granted to the company shall cease and determine, except in so far as the same are necessary for effectually operating the works then completed, and any works at the date of such forfeiture constructed or acquired by it may be taken over and operated or disposed of by the Governor in Council in the manner hereinafter provided.

15. When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying, and in case of dispute as to such quantity the Minister may order an inspection of the works and the report and finding of the inspecting officer as to the capacity thereof, shall, for the purposes of this section be final and conclusive.

16. Companies which acquire the right to use or divert water from any river or other source of supply shall, subject to the provisions of sec. seven, have priority among themselves according to the date of their licenses or authorizations, so that each company shall be entitled to receive the whole of the supply to which its license or authorization entitles it, or to the amount of water which their works will carry, or to the amount of water required by the land on which it is applied, whichever be the smaller amount, before any company whose license or authorization is of a later date shall have any claim to a supply; and should complaint be made to the Minister or to an officer authorized by him to receive such complaints that any company is receiving water from such source of supply to which another company is entitled by virtue of priority of right, and that the company having such priority of right is not receiving the supply to which it is entitled, some officer to be named by the Minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and if he finds that there is ground for the complaint shall cause the head-gates of the ditch or other works of the company which is receiving an undue supply of water to be closed so that the supply to which the other company is entitled shall pass and flow to its works.

17. Every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repairs of the works or any portion thereof.

2. The production of instructions in writing signed by the Minister or his Deputy or the Secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer.

3. Every person who wilfully obtructs any inspecting officer in the execution of his duty is liable on summary conviction to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months with or without hard labour or to both.

18. Lands required for the works of the company, as shown by the maps and plans filed, in whomsoever the same may be vested, whether in Her Majesty or in any company under this Act, or in any railway company, or in any other person whomsoever, or any interest in or right or privilege with regard to such land which may be so required, may be taken and acquired by the company, and to this end all the provisions of the Railway Act which and so far as they are applicable to such taking and acquisition, may be availed of as if the same had been included in this Act, the Minister of the Interior and the Department of the Interior, being substituted for the Minister of Railways and Canals and the Department of Railways and Canals, respectively, wherever in the provisions of the said Act the latter Minister and Department are referred to. Provided that the Minister of the Interior may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition hereunder of any lands which are vested in any company under this Act, or in any railway company, or of any interest in such lands or any right or privilege affecting the same.

2. All the provisions of the Railway Act which may be applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the company or the exercise of any of the powers granted to the company under this Act.

19. All maps, plans and books of reference shewing the lands required by the company for any purpose in connection with the construction or maintenance, of its works must be signed and certified correct by a duly qualified Dominion Land Surveyor.

20. The Minister or such officer as he may designate in case of dispute shall be the sole arbiter as to the area of land which may be taken by the company without the consent of the owner for any purpose in the construction and maintenance of its works.

21. Every person who interrupts, molests or hinders in his work any engineer or Dominion Land Surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable on summary conviction to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, or both.

22. No company authorized to divert the water of any river, stream, lake or other waters shall divert more water than the quantity actually required for the purpose authorized, and any company or officer or employee of the same, so doing, shall be guilty of an offence punishable on summary conviction by a fine not exceeding $5.00 per day (or fraction of a day) for each unit or fraction of a unit of water so diverted.

2. In case of dispute as to the quantity of water diverted, the Minister may order an inspection of the works of the company by an officer named by him for that purpose, and for the purposes of this section the report and finding of such officer as to the quantity diverted shall be final and conclusive.

25. Every person who without authority takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this act, or who takes or diverts therefrom any greater quantity of water than he is entitled to is guilty of an offence and liable upon summary conviction to a fine not exceeding $5 per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprison ment not exceeding days, or to both, and upon indictment to a fine not exceeding $5 per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding days or to both.

24. When any company abandons or ceases to use any waters acquired by it for the purposes for which the same were acquired and any charge of such abandonment, or ceasing to use water, is made to the Minister, the same may be enquired into by him or by any person or officer appointed by him for that purpose, and the Minister shall submit his report upon such enquiry to the Governor in Council, and the Governor in Council may make such order in the premises as may be deemed just and proper, and if the Governor in Council should as he may by such order declare a forfeiture of the right of the company offending to the use of the water authorized the right so ordered or declared to be forfeited shall cease and determine.

25. Any company having the right to the use of water for irrigation or other purposes shall dispose of any surplus water flowing in its works which is not being utilized or for the purposes authorized, to anyperson applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices. Persons so applying shall pay an amount equal to the cost andexpense of the works required to convey the surplus water to them, or shall themselves construct such works. Until this is done the delivery of surplus water need not be made. When the necessary works have been constructed and the payment or tender herein provided for has been made the applicant shall be entitled to the use of so much of the surplus water as such works shall have the capacity to carry. But nothing herein shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the company for the purposes authorized, or to waste or sell or dispose of the same after being used by him, or shall prevent the original owners from retaking, selling or disposing of the same in the usual or customary manner after it has been so used as aforesaid.

26. No company undertaking to sell water conveyed by their works shall, subsequent to the first four years after the construction of such works as are necessary to convey the water to the user, discriminate between the users of such water regarding the price of the same. If from any cause the whole amount of water agreed to be supplied by a company be not available then each user shall have furnished to him by the company so much water as shall bear to the availablw water the same proportion as his usual supply bears to the whole amount agreed to be furnished. Any company violating these provisions shall be guilty of an offence against this act and liable upon summary conviction before two justices of the peace to a fine not exceeding one thousand dollars for each and every such offence, or to imprisonment for a period not exceeding days, or to both.

27. The right to the use of waters flowing in well defined subterranean channels and courses may be acquired, under the provisions of this Act, and no person shall by drains, ditches, subterranean galleries or other like works, collect and divert percolating waters supplying such subterranean channel and courses to the prejudice of any company which has already acquired the right thereto; provided however, that nothing in this section contained shall be so construed as to render any company liable in damages for the diversion or obstruction of the flow of subterranean waters by lawfully excavating for cellars, or for mining, quarrying or carrying on like works on its own land, nor for excavating drains for draining and improving its own land, nor to prohibit the owner of any land from sinking wells thereon, and thereby collecting the waters percolating through such land and by means of pumps, buckets, or other appliances withdrawing the same for domestic purposes.

(a.) Every applicant for a license or authorization to sink or bore for an artesian well shall file with the Minister and the agent a memorial setting forth his name and residence, or, if the applicant be an incorporated company, the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers, the extent of the company's subcribed capital and amount of paid-up capital, the proposed method of raising further funds if needed, and the purposes for which the Company is incorporated. The memorial shall also state the particular location of the proposed well, specifying if upon surveyed lands the particular legal subdivision and the part thereof whereon the same is situated; if on unsurveyed lands the location of such well by reference to the nearest township or section corner with sufficient accuracy to identify the same with reasonable certainly; if in any city, town, village or hamlet, the particular lot or parcel upon which the same is situated; the probable quantity of water required to be used and the purpose to which said water is to be applied; the proposed rate to be charged for water; the probable number of consumers; if water is to be used for irrigation the probable quantity of land that may be beneficially irrigated, and such other and further particulars as are needful to a full understanding of the scheme, and as may be required by the Minister.

(b.) No company shall take water from any subterranean channel if by its so doing the rights of any person lawfully using such water are prejudiced.

(c.) Every person or company sinking or boring for an artesian well shall cause to be placed in such well a sufficient casing of strength sufficient, and so arranged and placed as to prevent the caving in of strata of clay, sand, or other unconsolidated matter carrying water not appropriated or claimed by the proprietor of such well, and shall so case such well as to prevent the escape of the waters thereof into such strata, and shall cause the same to be furnished with such appliances at or near to the surface as will readily and effectively arrest and prevent the flow of water from such well.

28. The Minister may grant to any company the right to store for irrigation purposes during periods of floods or high water or during those portions of the year when water is not required for irrigation purposes any water not being used during such periods. Should there be any works for the carriage of water which are not being utilized to their full capacity by their owner, and which can with advantage be utilized to carry the whole or any portion of the water desired to be stored any portion of the distance required to be so carried or conducted, without interfering with the use made of the said works by their owner, then the said works shall be placed at the disposal of the company desiring to so use it. And if the parties cannot agree to the compensation to be paid for such service, the Minister may fix the rate to be paid for the same.

29. Any person or company constructing any works, under the provisions of this Act, shall during such construction keep open for safe and convenient travel all public highways theretofore publicly travelled as such, when the same are crossed by such works, and shall before water is diverted into, conveyed or stored by any such works, which extend into or cross any such highway construct, to the satisfaction of the Minister, a substantial bridge not less than fourteen feet in breadth, with proper and sufficient approaches thereto, over such works, and every such bridge and the approaches thereto shall be always thereafter maintained by such person or company.

30. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement of flowing water, and the cubic foot or acre foot, the unit of measurement of quantity. The acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet.

31. Companies constructing and operating works under this Act shall on or before the thirty-first day of January in each and every year make a return to the Minister attested by the oath of its President and Secretary, for the year ending the thirty-first day of December preceding, showing :—

Amount expended on construction.
Amount expended on repairs.
Amount received from shareholders.
Amount of bonds issued.
Amount received for water supplied for irrigation.
Amount received from other sources.
Amount of dividend declared and paid.
Amount of capital stock authorized.
Amount of capital stock subscribed.
Amount of capital stock paid up to date.
Amount of bonded indebtedness.
Amount bonds sold for.
Rate of interest bonds bear.
Amount of indebtedness other than bonds and rate of interest the same is bearing.
Cost of management.
Statement of works, extent and character.
Number of miles of canals, ditches, etc.
Number of users.
Number of acres actually under irrigation.
Number of acres of irrigable land in the system.
Names of officers or employees.
Proposed extensions during ensuing years and acreage to be covered thereby.
With such other data as the Governor in Council may see fit to order. Attached to such annual return shall be a copy of by-laws of the company showing all amendments thereto during the year covered by said return.

The returns required by this clause may be waived by the Minister in the case of a private individual supplying water solely to himself.

32. When complaint is made to the Minister or the agent by a consumer of water who has paid his rates and is verified by the oath of the complainant which evidence shall be corroborated by the oath of at least one witness that a company which has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint. If the company fails to obey such order the Minister shall forthwith issue a certificate to that effect reciting all the facts, which certificate being presented to the Judge of the Supreme Court for the Judicial District within which such works lie, the Judge is hereby empowered and shall hear and determine the matter in a summary manner and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises and refusal or neglect to obey any order made by a Judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of non compliance with any other mandatory order of the said Court or a Judge thereof.

33. The Governor in Council may authorize two or more companies whose works lie contiguous to each other, to unite and form one company with a view to providing increased water supply and extending their works when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union ; that users dependent upon the water supply will not be injured, and that the amalgamated companies have the necessary financial means for carrying out the proposed undertaking, the same class of data being furnished to the Governor in Council as is required to be furnished upon an application for authorization to construct works under this Act. Public notice of the authorization of the amalgamated companies and their proposed works shall be given in the manner prescribed in the case of an application under section ten.

34. The Minister or any one specially authorized by him may, when he deems necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpœna, examine such person under oath, and compel the production of papers and writings, and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the Minister or the person authorized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

35. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before any agent authorized under this Act, a Dominion lands agent or officer, or any persons specially authorized by the Minister to take the same, and the Minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

36. The Governor in Council may take such steps as he may deem necessary at any time to secure a complete or partial survey of the sources of the water supply, in the North-west Territories, for irrigation and other purposes, with an estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage, and may reserve lands forming such sites from general sale and settlement and dispose of the same by sale or lease to be utilized for purposes within the purview of this Act. He may also take such steps as he may think necessary to protect the sources of water supply in the North-west Territories, and to prevent any act likely to diminish or injure said supply.

37. The Governor in Council may from time to time authorize the establishing in the rivers, streams, lakes, and other waters of the North-west Territories, water gauges for computing the approximate volume and discharge of waters; the placing of high water marks on rivers and streams, lakes and other waters when in flood; the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters, and the adopting of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he may find necessary and expedient consistent with the provisions of this Act.

38. The Governor in Council may, if in the public interest it is at any time deemed advisable so to do, take over and operate or otherwise dispose of the works of any company authorized under this Act. Provided that compensation shall be paid for such works at their value, such value to be ascertained by reference to the Exchequer Court, or by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the owner of the works to be taken over, and the third by the two so appointed, or in case these cannot agree as to the third arbitrator, by the Exchequer Court, and that in estimating such value the court or the arbitrators may take into account the expenditure of the company and interest on such expenditure and the value of its property works and business; Provided further that no person who at such date is using the water of said works, shall be deprived of the quantity of water he is entitled to. Provided further that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who may have prepared or have in course of preparation any land to be supplied with water by the works taken over.

39. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Governor in Council, and no tariff of charges for water furnished by any company shall come into operation until the same has been approved by the Governor in Council.

40. Any company authorized under this Act may issue bonds, debentures or other securities the amount of the subscribed capital, or double the amount of the paid-up capital, whichever may be the smaller amount.

41. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation, and shall dispose thereof within fifteen years after its acquisition, otherwise such lands shall revert to the Crown.

42. Any company authorized under this Act may for the purposes of its undertaking construct or acquire electric telegraph and telephone lines or any other contrivances for transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section 21 of this Act.

43. The Governor in Council may—

Define the manner in which the measurement of water shall be arrived at.

Define the duty of water according to locality and soil.

Define the portion of the year during which water shall be supplied for irrigation.

Fix the license fee or charge to be paid by companies applying for registration of water rights or for authority to engage in irrigation or other works under this Act which fees or charges may be varied according to the capital employed or volume of water diverted.

Regulate the extent of diversion from rivers, streams, lakes or other waters.

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other water under the authority of this Act.

Regulate from time to time the water rates which may be charged by companies and the publication of tariffs of rates.

Prescribe forms to be used in proceedings under this Act.

Impose penalties for violations of any regulation made under authority of this Act which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both.

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals or under either or both systems.

Authorize some person or officer whose decision shall be final and without appeal to decide in cases of dispute as to what constitutes surplus water as mentioned in clause of this Act.

Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise, and for which no provision is made in this Act; and further make any regulations which are considered necessary to give the provisions of this Act full effect; and from time to time, alter or revoke any orders or regulations made in respect of such provisions, and make others in their stead.

44. All regulations made by the Governor in Council under this Act shall be published in the *Canada Gazette* and shall be laid before both houses of Parliament within the first fifteen days of the Session next after the date thereof.

45. Any companies already formed to promote irrigation in the North-west Territories shall be subject to all the provisions of this Act, except so far as the powers mentioned in section 40 of this Act are concerned.

Bill as it became after passing through Com. of Council's hands
12/6/94

BILL. [1894.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as *The Dominion Irrigation Act*, and shall apply to and be in force throughout the North-west Territories.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(*a.*) The expression "Minister" means the Minister of the Interior;

(*b.*) The expression "agent" means the Registrar of the Lands Registration District in which the land or water are situated.

(*c.*) The expression "Dominion Land Surveyor" means a surveyor duly authorized, under the provisions of *The Dominion Lands Act*, to survey Dominion lands;

(*d.*) The expression "company" means any incorporated company, the objects and powers of which extend to or include the construction or operation of irrigation or other works under this Act or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes, and includes also any person who has been authorized or has applied or is about to apply for authority to construct and operate such works or carry on such business.

(*e.*) The expression "works" shall mean and include any dykes, dams, weirs, flood-gates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps, and any contrivance for carrying or conducting water, subterranean galleries, artesian wells or other works which are authorized to be constructed under the provisions of this Act.

(*f.*) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit is the discharge of one cubic foot of water per second.

3. The right to the use of all water at any time in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water whether surface or subterranean shall, for the purposes of this Act, in every case be deemed to be vested in the Crown until the contrary be proved by establishing any other right than that of the Crown to the use of such water; and save in the exercise of any legal right existing at the time of such diversion or use, no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or or other body of water whether surface or subterranean otherwise than under the provisions of this Act.

4. No grant by the Crown of lands in the North-west Territories or of any estate or interest therein shall vest in the grantee any exclusive or other property or interest in or any exclusive right or privilege with respect to any lake, river, stream or other body of water whether surface or subterranean, or in or with respect to the water contained or flowing therein, or the land forming the bed or shore thereof.

5. After the passing of this Act no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water whether surface or subterranean, shall be acquired by any riparian owner or any other person by length of use or otherwise than as the same may be acquired or conferred under the provisions of this Act.

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6. Any person who holds water rights of a class similar to those which may be acquired under this Act, or which with or without authority has constructed or is operating works for the utilization of water, shall obtain a license or authorization under this Act within twelve months from the date of the passing of this Act. If such license or authorization is obtained within the time limited, the exercise of such rights may thereafter be continued, and such works may be carried on under the provisions of this Act, otherwise such rights or works, and all the interest of such person therein, shall without any demand or proceeding be absolutely forfeited to Her Majesty and may be disposed of or dealt with as the Governor in Council may see fit.

The application for such license or authorization shall be made in the same manner as for other licenses or authorization under this Act, and the like proceedings shall be had thereon and the like information furnished in connection therewith.

7. Any water the property in which is vested in the Crown may be acquired, for domestic, irrigation, or other purposes, without regard to deterioration in quality or diminution in quantity, upon application therefor as hereinafter provided, and all applications made in accordance with the provisions of this Act shall have precedence, according to the date of filing the same with the agent, if for the same purpose, but not otherwise. The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean household and sanitary purposes and the watering of stock, but shall not include the sale or barter of water for such purposes; second, irrigation purposes; and, third, other purposes.

Applications shall have precedence in this order irrespective of the date of filing, so that all applications for domestic purposes shall have precedence of all those for irrigation and other purposes, and all applications for irrigation purposes shall have precedence of all those for purposes within the third class.

Provided that no application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes, and that when any person abandons or ceases to use any waters acquired by him for the purposes for which the same were acquired, or wastes the same, his right shall cease.

8. Any person contemplating or projecting any works under this Act, may upon submitting a general description of such works and upon payment of a fee of obtain from the agent a license to do the necessary preliminary work in connection with the location of such works, and after he obtains such license may with such assistants as may be necessary enter into and upon any public or private lands to take levels, make surveys, and do other necessary work in connection with such location, doing no unnecessary damage.

9. Any company applying for a license or authorization under this Act shall file with the Minister and the agent a memorial setting forth the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the extent of the company's subscribed capital and the

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9. Any company applying for a license or authorization under this Act shall file with the Minister and the agent a memorial setting forth the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the extent of the company's subscribed capital and amount of paid up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated. If the applicant be not an incorporated company, the memorial shall set forth his name, residence and occupation, and such particulars as to his financial standing as shall establish to the satisfaction of the Minister his ability

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to carry out the proposed undertaking. The memorial shall also state the name of any river, stream or other source of supply from which water is to be diverted, the extent of settlement along or in the vicinity of such river, stream or other source of water supply; the probable quantity of water to be used, and the point of diversion; the works proposed to be constructed for the purposes of the undertaking, and the locality of the same, as near as may be; the purpose to which the said water is to be applied, and the proposed rate to be charged for it; the probable number of consumers; the probable quantity of land that may be beneficially irrigated; the character, description and value of such land in its present state, including improvements, and such other and further particulars as are needful to a full understanding of the scheme. Attached to the memorial shall be a general map or plan on a scale of not less than one inch ~~equal~~ to half a mile showing the tract to be served by such water, the location of all rivers, streams and other sources of water supply therein, and the probable location of the proposed works. Also the position and area of all ponds, reservoirs or basins intended to be created for the purpose of storing water or which may have that effect.

(1.) There shall also be filed with the memorial plans in detail of all bridges or culverts necessary for road or farm crossings over or under the works of the company, also plans in detail of flumes, headworks, dams or other structures for the diversion or use of water, such plans to be on a scale of not less than one inch ~~equal~~ to four feet.

(2.) In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second, in addition to the above information the applicants shall furnish the following maps or plans:

(*a.*) A longitudinal profile of the ditch, showing the bottom and the proposed surface water line. The horizontal scale of this plan shall be not less than one inch ~~equal~~ to four hundred feet, and the vertical scale not less than one inch ~~equal~~ to twenty feet.

(*b.*) A plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side-hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. The plan shall be drawn on a horizontal and vertical scale of one inch ~~equal~~ to twenty feet.

(3.) Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply or in order to create a pond, reservoir or basin of water anywhere, or which may have that effect, shall be prepared on a longitudinal scale of not less than one inch equal to one hundred feet, and for cross-sections on a scale of not less than one inch ~~equal~~ to twenty feet, and shall show what material is intended to be used and how placed in such works. The timber, brush, stone, brick or other material used in such works shall be shown in detail on a plan the scale of which shall be not less than one inch ~~equal~~ to four feet.

(4.) Cross-section maps or plans showing the surface of the ground under such pond, reservoir or basin of water, and also the surface of the water proposed to be held in the same; the horizontal scale of said maps or plans shall be not less than one inch equal to one hundred feet; and the vertical scale shall be not less than one inch ~~equal~~ to twenty feet, and a sufficient number of lines of levels shown, so that the contents of the pond, reservoir or basin of water can be accurately determined. If the maps or plans show the levels by contour lines, they shall be on a scale sufficiently large so that the contour lines, shewing a vertical distance between them not exceeding one foot, can be accurately delineated. The maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water, and the manner in which affected, and shall show in detail such other particulars as the Minister or Governor in Council may see fit to order; and there shall also be furnished a plan, on a scale of not less than one inch equal to four feet, showing the proposed manner of controlling and drawing off the water from any such pond, reservoir, or basin.

10. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant be a company, by the executive officers thereof, such of the maps or plans as are intended to show the land to be affected by the

(*a.*) A longitudinal profile of the ditch, showing the bottom and the proposed surface water line. The horizontal scale of this plan shall be not less than one inch equal to four hundred feet, and the vertical scale not less than one inch equal to twenty feet.

(*b.*) A plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side-hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. The plan shall be drawn on a horizontal and vertical scale of one inch equal to twenty feet.

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10. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant be a company, by the executive officers thereof, such of the maps or plans as are intended to show the land to be affected by the works being also signed and certified correct by a Dominion Land Surveyor, and shall be filed one copy with the Minister and the second copy with the agent, and the same or a true copy thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent. In any case where he thinks proper, the Minister may direct that a copy be also filed in such other place or with such other official or person as he may name for that purpose and be there open to public inspection. Public notice of such filing, which notice shall contain a statement of the nature of the rights applied for and the general location and character of the proposed works, shall forthwith be given by the applicant in the *Canada Gazette*, and not less than once a week in some newspaper published in the neighbourhood of the proposed works and to be named by the agent, for a period of not less than thirty days nor more than ninety days, as the Minister may determine, within which time any and all objections to the proposed works shall be forwarded to the Minister. The Minister shall consider all objections filed and report thereon to the Governor in Council, who may thereupon by Order in Council authorize the construction of said works with such changes or variations as may be deemed necessary.

(2.) Any works authorized under this Act shall if the Minister so determines be constructed subject to inspection during construction from time to time, and on completion, and at any time thereafter, by an officer to be named by the Minister, and the cost of such inspection or such portion thereof as the Minister may decide shall be borne by the company constructing such works.

(3.) Should any person residing on or owning land in the neighbourhood of any works either completed or in course of construction apply to the Minister in writing desiring an inspection of such works the Minister may order an inspection thereof.

(4.) The Minister may require the applicant for inspection to make a deposit of such sum of money as the Minister may think necessary to pay the expenses of an inspection, and in case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit.

(5.) In case the company is required by the Minister to pay the expenses of an inspection or any part thereof, such payment may be enforced as a debt due Her Majesty.

(6.) Upon any inspection hereunder the Minister may order the company to make any addition or alteration which he may consider necessary for their security to or in any works of the company, and non-compliance with such order may be

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(5.) In case the company is required by the Minister to pay the expenses of an inspection or any part thereof, such payment may be enforced as a debt due Her Majesty.

(6.) Upon any inspection hereunder the Minister may order the company to make any addition or alteration which he may consider necessary for their security to or in any works of the company, and non-compliance with such order may be dealt with in the same manner as is provided with respect to an order of the Minister under section of this Act.

11. No work shall be commenced until the approval of the Governor in Council has been signified by public notice in the *Canada Gazette* and some newspaper published in the neighbourhood of the proposed works and named by the Minister, which notice shall set forth the particulars mentioned in the memorial, with such changes or variations as the Governor in Council may see fit to order, and shall specify a time within which such works shall be completed. Such notice shall be published in not less than two successive issues of such newspaper, and shall be the authority for proceeding with the work. A copy of the notice shall also be recorded in a book specially kept for that purpose by the agent in the office for his district, and this record shall remain open for public inspection. If

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either the lands on which the water is to be applied or the waters to be used therefor are not confined to the territory assigned to any one agent, a record must be filed with each agent in whose territory any part thereof is situate.

(2.) Any changes and variations ordered by the Governor in Council regarding the plans of the proposed works must be filed by the applicant in the office of the agent and form a portion of the record open for public inspection.

12. No material deviation shall be made from the plans filed without permission, and upon any question arising as to whether any deviation is material or otherwise the same shall be decided by the Minister or such officer as he may designate.

13. The company, immediately after the last publication of such last mentioned notice, may proceed with the execution and construction of the works authorized, and for the purposes of such execution and construction shall have the powers conferred by the Railway Act upon railway companies so far as the same are applicable to the undertaking of the company, and are not inconsistent with the provisions of this Act or with the authority given to the company, the provision conferring such powers being taken for this purpose to refer to any work of the company where in the said Act they refer to the railway.

14. The construction of any work authorized under this Act shall be commenced not later than two months after the last publication of such last-mentioned notice, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose. The Minister or such officer as he may designate, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour. Should any unforeseen disaster intervene to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the Governor in Council may authorize an extension of time for the commencement or completion of the works. At the time limited for the completion of the works, the rights granted to the company shall cease and determine, except in so far as the same are necessary for effectually operating the works then completed, and any works at the date of such forfeiture constructed or acquired by it may be taken over and operated or disposed of by the Governor in Council in the manner hereinafter provided.

15. When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying, and in case of dispute as to such quantity the Minister may order an inspection of the works and the report and finding of the inspecting officer as to the capacity thereof, shall, for the purposes of this section be final and conclusive.

16. Companies which acquire the right to use or divert water from any river or other source of supply shall, subject to the provisions of sec. seven, have priority among themselves according to the date of their licenses or authorizations, so that each company shall be entitled to receive the whole of the supply to which its license or authorization entitles it, or to the amount of water which their works will carry, or to the amount of water required by the land on which it is applied, whichever be the smaller amount, before any company whose license or authorization is of a later date shall have any claim to a supply; and should complaint be made to the Minister or to an officer authorized by him to receive such complaints that any company is receiving water from such source of supply to which another company is entitled by virtue of priority of right, and that the company having such priority of right is not receiving the supply to which it is entitled, some officer to be named by the Minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and if he finds that there is ground for the complaint shall cause the head-gates of the ditch or other works of the company which is receiving an undue supply of water to be closed so that the supply to which the other company is entitled shall pass and flow to its works.

17. Every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired

14. The construction of any work authorized under this Act shall be commenced not later than two months after the last publication of such last-mentioned notice, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose. The Minister or such officer as he may designate, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour. Should any unforeseen disaster intervene to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the Governor in Council may authorize an extension of time for the commencement or completion of the works. At the time limited for the completion of the works, the rights granted to the company shall cease and determine, except in so far as the same are necessary for effectually operating the works then completed, and any works at the date of such forfeiture constructed or acquired by it may be taken over and operated or disposed of by the Governor in Council in the manner hereinafter provided.

15. When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying, and in case of dispute as to such quantity the Minister may order an inspection of the works and the report and finding of the inspecting officer as to the capacity thereof, shall, for the purposes of this section be final and conclusive.

16. Companies which acquire the right to use or divert water from any river or other source of supply shall, subject to the provisions of sec. seven, have priority among themselves according to the date of their licenses or authorizations, so that each company shall be entitled to receive the whole of the supply to which its license or authorization entitles it, or to the amount of water which their works will carry, or to the amount of water required by the land on which it is applied, whichever be the smaller amount, before any company whose license or authorization is of a later date shall have any claim to a supply; and should complaint be made to the Minister or to an officer authorized by him to receive such complaints that any company is receiving water from such source of supply to which another company is entitled by virtue of priority of right, and that the company having such priority of right is not receiving the supply to which it is entitled, some officer to be named by the Minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and if he finds that there is ground for the complaint shall cause the head-gates of the ditch or other works of the company which is receiving an undue supply of water to be closed so that the supply to which the other company is entitled shall pass and flow to its works.

17. Every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repairs of the works or any portion thereof.

2. The production of instructions in writing signed by the Minister or his Deputy or the Secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer.

3. Every person who wilfully obtructs any inspecting officer in the execution of his duty is liable on summary conviction to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months with or without hard labour or to both.

18. Lands required for the works of the company, as shown by the maps and plans filed, in whomsoever the same may be vested, whether in Her Majesty or in any company under this Act, or in any railway company, or in any other person whomsoever, or any interest in or right or privilege with regard to such land which may be so required, may be taken and acquired by the company, and to this end all the provisions of the Railway Act which and so far as they are applicable to such taking and acquisition, may be availed of as if the same had been included in this Act, the Minister of the Interior and the Department of the Interior, being substituted for the Minister of Railways and Canals and the Department of Railways and Canals, respectively, wherever in the provisions of the said Act the latter Minister and Department are referred to. Provided that the Minister of the Interior may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition hereunder of any lands which are vested in any company under this Act, or in any railway company, or of any interest in such lands or any right or privilege affecting the same.

2. All the provisions of the Railway Act which may be applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the company or the exercise of any of the powers granted to the company under this Act.

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2. All the provisions of the Railway Act which may be applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the company or the exercise of any of the powers granted to the company under this Act.

19. All maps, plans and books of reference shewing the lands required by the company for any purpose in connection with the construction or maintenance, of its works must be signed and certified correct by a duly qualified Dominion Land Surveyor.

20. The Minister or such officer as he ~~may~~ designate in case of dispute ~~shall~~ be the sole arbiter as to the area of land which may be taken by the company without the consent of the owner for any purpose in the construction and maintenance of its works.

21. Every person who interrupts, molests or hinders in his work any engineer or Dominion Land Surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable on summary conviction to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, or both.

22. No company authorized to divert the water of any river, stream, lake or other waters shall divert more water than the quantity actually required for the purpose authorized, and any company or officer or employee of the same, so doing, shall be guilty of an offence punishable on summary conviction by a fine not exceeding $5.00 per day (or fraction of a day) for each unit or fraction of a unit of water so diverted.

2. In case of dispute as to the quantity of water diverted, the Minister may order an inspection of the works of the company by an officer named by him for that purpose, and for the purposes of this section the report and finding of such officer as to the quantity diverted shall be final and conclusive.

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23. Every person who without authority takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this act, or who takes or diverts therefrom any greater quantity of water than he is entitled to is guilty of an offence and liable upon summary conviction to a fine not exceeding $5 per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprison ment not exceeding days, or to both, and upon indictment to a fine not exceeding $5 per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding days or to both.

24. When any company abandons or ceases to use any waters acquired by it for the purposes for which the same were acquired and any charge of such abandonment, or ceasing to use water, is made to the Minister, the same may be enquired into by him or by any person or officer appointed by him for that purpose, and the Minister shall submit his report upon such enquiry to the Governor in Council, and the Governor in Council may make such order in the premises as may be deemed just and proper, and if the Governor in Council should as he may by such order declare a forfeiture of the right of the company offending to the use of the water authorized the right so ordered or declared to be forfeited shall cease and determine.

25. Any company having the right to the use of water for irrigation or other purposes shall dispose of any surplus water flowing in its works which is not being utilized or for the purposes authorized, to anyperson applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices. Persons so applying shall pay an amount equal to the cost andexpense of the works required to convey the surplus water to them, or shall themselves construct such works. Until this is done the delivery of surplus water need not be made. When the necessary works have been constructed and the payment or tender herein provided for has been made the applicant shall be entitled to the use of so much of the surplus water as such works shall have the capacity to carry. But nothing herein shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the company for the purposes authorized, or to waste or sell or dispose of the same after being used by him, or shall prevent the original owners from retaking, selling or disposing of the same in the usual or customary manner after it has been so used as aforesaid.

26. No company undertaking to sell water conveyed by their works shall, subsequent to the first four years after the construction of such works as are necessary to convey the water to the user, discriminate between the users of such water regarding the price of the same. If from any cause the whole amount of water agreed to be supplied by a company be not available then each user shall have furnished to him by the company so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished. Any company violating these provisions shall be guilty of an offence against this act and liable upon summary conviction before two justices of the peace to a fine not exceeding one thousand dollars for each and every such offence, or to imprisonment for a period not exceeding days, or to both.

27. The right to the use of waters flowing in well defined subterranean channels and courses may be acquired, under the provisions of this Act, and no person shall by drains, ditches, subterranean galleries or other like works, collect and divert percolating waters supplying such subterranean channel and courses to the prejudice of any company which has already acquired the right thereto; provided however, that nothing in this section contained shall be so construed as to render any company liable in damages for the diversion or obstruction of the flow of subterranean waters by lawfully excavating for cellars, or for mining, quarrying or carrying on like works on its own land, nor for excavating drains for draining and improving its own land, nor to prohibit the owner of any land from sinking wells thereon, and thereby collecting the waters percolating through such land and by means of pumps, buckets, or other appliances withdrawing the same for domestic purposes.

(*a.*) Every applicant for a license or authorization to sink or bore for an artesian well shall file with the Minister and the agent a memorial setting forth his name and residence, or, if

works shall have the capacity to carry. But nothing herein shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the company for the purposes authorized, or to waste or sell or dispose of the same after being used by him, or shall prevent the original owners from retaking, selling or disposing of the same in the usual or customary manner after it has been so used as aforesaid.

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(*a.*) Every applicant for a license or authorization to sink or bore for an artesian well shall file with the Minister and the agent a memorial setting forth his name and residence, or, if the applicant be an incorporated company, the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers, the extent of the company's subcribed capital and amount of paid-up capital, the proposed method of raising further funds if needed, and the purposes for which the Company is incorporated. The memorial shall also state the particular location of the proposed well, specifying if upon surveyed lands the particular legal subdivision and the part thereof whereon the same is situated; if on unsurveyed lands the location of such well by reference to the nearest township or section corner with sufficient accuracy to identify the same with reasonable certainly; if in any city, town, village or hamlet, the particular lot or parcel upon which the same is situated; the probable quantity of water required to be used and the purpose to which said water is to be applied; the proposed rate to be charged for water; the probable number of consumers; if water is to be used for irrigation the probable quantity of land that may be beneficially irrigated, and such other and further particulars as are needful to a full understanding of the scheme, and as may be required by the Minister.

(*b.*) No company shall take water from any subterranean channel if by its so doing the rights of any person lawfully using such water are prejudiced.

(*c.*) Every person or company sinking or boring for an artesian well shall cause to be placed in such well a sufficient casing of strength sufficient, and so arranged and placed as to prevent the caving in of strata of clay, sand, or other unconsolidated matter carrying water not appropriated or claimed by the proprietor of such well, and shall so case such well as to prevent the escape of the waters thereof into such strata, and shall cause the same to be furnished with such appliances at or near to the surface as will readily and effectively arrest and prevent the flow of water from such well.

28. The Minister may grant to any company the right to store for irrigation purposes during periods of floods or high water or during those portions of the year when water is not required for irrigation purposes any water not being used during such periods. Should there be any works for the carriage of water which are not being utilized to their full capacity by their owner, and which can with advantage be utilized to carry the whole or any portion of the water desired to be stored any portion of the distance required to be so carried or conducted, without interfering with the use made of the said works by their owner, then the said works shall be placed at the disposal of the company desiring to so use it. And if the parties cannot agree to the compensation to be paid for such service, the Minister may fix the rate to be paid for the same.

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(*a.*) Every applicant for a license or authorization to sink or bore for an artesian well shall file with the Minister and the agent a memorial setting forth his name and residence, or, if the applicant be an incorporated company, the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers, the extent of the company's subcribed capital and amount of paid-up capital, the proposed method of raising further funds if needed, and the purposes for which the Company is incorporated. The memorial shall also state the particular location of the proposed well, specifying if upon surveyed lands the particular legal subdivision and the part thereof whereon the same is situated; if on unsurveyed lands the location of such well by reference to the nearest township or section corner with sufficient accuracy to identify the same with reasonable certainly; if in any city, town, village or hamlet, the particular lot or parcel upon which the same is situated; the probable quantity of water required to be used and the purpose to which said water is to be applied; the proposed rate to be charged for water; the probable number of consumers; if water is to be used for irrigation the probable quantity of land that may be beneficially irrigated, and such other and further particulars as are needful to a full understanding of the scheme, and as may be required by the Minister.

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29. Any person or company constructing any works, under the provisions of this Act, shall during such construction keep open for safe and convenient travel all public highways theretofore publicly travelled as such, when the same are crossed by such works, and shall before water is diverted into, conveyed or stored by any such works, which extend into or cross any such highway construct, to the satisfaction of the Minister, a substantial bridge not less than fourteen feet in breadth, with proper and sufficient approaches thereto, over such works, and every such bridge and the approaches thereto shall be always thereafter maintained by such person or company.

30. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement of flowing water, and the cubic foot or acre foot, the unit of measurement of quantity. The acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet.

31. Companies constructing and operating works under this Act shall on or before the thirty-first day of January in each and every year make a return to the Minister attested by the oath of its President and Secretary, for the year ending the thirty-first day of December preceding, showing :—

Amount expended on construction.
Amount expended on repairs.
Amount received from shareholders.
Amount of bonds issued.
Amount received for water supplied for irrigation.
Amount received from other sources.
Amount of dividend declared and paid.
Amount of capital stock authorized.
Amount of capital stock subscribed.
Amount of capital stock paid up to date.
Amount of bonded indebtedness.
Amount bonds sold for.
Rate of interest bonds bear.
Amount of indebtedness other than bonds and rate of interest the same is bearing.
Cost of management.
Statement of works, extent and character.
Number of miles of canals, ditches, etc.
Number of users.
Number of acres actually under irrigation.
Number of acres of irrigable land in the system.
Names of officers or employees.
Proposed extensions during ensuing years and acreage to be covered thereby.
With such other data as the Governor in Council may see fit to order. Attached to such annual return shall be a copy of by-laws of the company showing all amendments thereto during the year covered by said return.

The returns required by this clause may be waived by the Minister in the case of a private individual supplying water solely to himself.

32. When complaint is made to the Minister or the agent by a consumer of water who has paid his rates and is verified by the oath of the complainant which evidence shall be corroborated by the oath of at least one witness that a company which has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint. If the company fails to obey such order the Minister shall forthwith issue a certificate to that effect reciting all the facts, which certificate being presented to the Judge of the Supreme Court for the Judicial District within which such works lie, the Judge is hereby empowered and shall hear and determine the matter in a summary manner and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises and refusal or neglect to obey any order made by a Judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of non compliance with any other mandatory order of the said Court or a Judge thereof.

33. The Governor in Council may authorize two or more

each and every year make a return to the Minister attested by the oath of its President and Secretary, for the year ending the thirty-first day of December preceding, showing :—

Amount expended on construction.
Amount expended on repairs.
Amount received from shareholders.
Amount of bonds issued.
Amount received for water supplied for irrigation.
Amount received from other sources.
Amount of dividend declared and paid.
Amount of capital stock authorized.
Amount of capital stock subscribed.
Amount of capital stock paid up to date.
Amount of bonded indebtedness.
Amount bonds sold for.
Rate of interest bonds bear.
Amount of indebtedness other than bonds and rate of interest the same is bearing.
Cost of management.
Statement of works, extent and character.
Number of miles of canals, ditches, etc.
Number of users.
Number of acres actually under irrigation.
Number of acres of irrigable land in the system.
Names of officers or employees.
Proposed extensions during ensuing years and acreage to be covered thereby.
With such other data as the Governor in Council may see fit to order. Attached to such annual return shall be a copy of by-laws of the company showing all amendments thereto during the year covered by said return.

The returns required by this clause may be waived by the Minister in the case of a private individual supplying water solely to himself.

32. When complaint is made to the Minister or the agent by a consumer of water who has paid his rates and is verified by the oath of the complainant which evidence shall be corroborated by the oath of at least one witness that a company which has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint. If the company fails to obey such order the Minister shall forthwith issue a certificate to that effect reciting all the facts, which certificate being presented to the Judge of the Supreme Court for the Judicial District within which such works lie, the Judge is hereby empowered and shall hear and determine the matter in a summary manner and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises and refusal or neglect to obey any order made by a Judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of non compliance with any other mandatory order of the said Court or a Judge thereof.

33. The Governor in Council may authorize two or more companies whose works lie contiguous to each other, to unite and form one company with a view to providing increased water supply and extending their works when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union ; that users dependent upon the water supply will not be injured, and that the amalgamated companies have the necessary financial means for carrying out the proposed undertaking, the same class of data being furnished to the Governor in Council as is required to be furnished upon an application for authorization to construct works under this Act. Public notice of the authorization of the amalgamated companies and their proposed works shall be given in the manner prescribed in the case of an application under section ten.

34. The Minister or any one specially authorized by him may, when he deems necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpœna, examine such person under oath, and compel the production of papers and writings, and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the Minister or the person authorized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

35. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before any agent authorized under this Act, a Dominion lands agent or officer, or any persons specially authorized by the Minister to take the same, and the Minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

36. The Governor in Council may take such steps as he may deem necessary at any time to secure a complete or

mary manner and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises and refusal or neglect to obey any order made by a Judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of non compliance with any other mandatory order of the said Court or a Judge thereof.

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35. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before any agent authorized under this Act, a Dominion lands agent or officer, or any persons specially authorized by the Minister to take the same, and the Minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

36. The Governor in Council may take such steps as he may deem necessary at any time to secure a complete or partial survey of the sources of the water supply, in the North-west Territories, for irrigation and other purposes, with an estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage, and may reserve lands forming such sites from general sale and settlement and dispose of the same by sale or lease to be utilized for purposes within the purview of this Act. He may also take such steps as he may think necessary to protect the sources of water supply in the North-west Territories, and to prevent any act likely to diminish or injure said supply.

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37. The Governor in Council may from time to time authorize the establishing in the rivers, streams, lakes, and other waters of the North-west Territories, water gauges for computing the approximate volume and discharge of waters; the placing of high water marks on rivers and streams, lakes and other waters when in flood; the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters, and the adopting of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he may find necessary and expedient consistent with the provisions of this Act.

38. The Governor in Council may, if in the public interest it is at any time deemed advisable so to do, take over and operate or otherwise dispose of the works of any company authorized under this Act. Provided that compensation shall be paid for such works at their value, such value to be ascertained by reference to the Exchequer Court, or by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the owner of the works to be taken over, and the third by the two so appointed, or in case these cannot agree as to the third arbitrator, by the Exchequer Court, and that in estimating such value the court or the arbitrators may take into account the expenditure of the company and interest on such expenditure and the value of its property works and business; Provided further that no person who at such date is using the water of said works, shall be deprived of the quantity of water he is entitled to. Provided further that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who may have prepared or have in course of preparation any land to be supplied with water by the works taken over.

39. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Governor in Council, and no tariff of charges for water furnished by any company shall come into operation until the same has been approved by the Governor in Council.

40. Any company authorized under this Act may issue bonds, debentures or other securities the amount of the subscribed capital, or double the amount of the paid-up capital, whichever may be the smaller amount.

41. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation, and shall dispose thereof within fifteen years after its acquisition, otherwise such lands shall revert to the Crown.

42. Any company authorized under this Act may for the purposes of its undertaking construct or acquire electric telegraph and telephone lines or any other contrivances for transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section [illegible] of this Act.

43. The Governor in Council may—

Define the manner in which the measurement of water shall be arrived at.

Define the duty of water according to locality and soil.

Define the portion of the year during which water shall be supplied for irrigation.

Fix the license fee or charge to be paid by companies applying for registration of water rights or for authority to engage in irrigation or other works under this Act which fees or charges may be varied according to the capital employed or volume of water diverted.

Regulate the extent of diversion from rivers, streams, lakes or other waters.

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other water under the authority of this Act.

Regulate from time to time the water rates which may be charged by companies and the publication of tariffs of rates.

Prescribe forms to be used in proceedings under this Act.

Impose penalties for violations of any regulation made under authority of this Act which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both.

Regulate the manner in which water is to be supplied to

by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the owner of the works to be taken over, and the third by the two so appointed, or in case these cannot agree as to the third arbitrator, by the Exchequer Court, and that in estimating such value the court or the arbitrators may take into account the expenditure of the company and interest on such expenditure and the value of its property works and business; Provided further that no person who at such date is using the water of said works, shall be deprived of the quantity of water he is entitled to. Provided further that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who may have prepared or have in course of preparation any land to be supplied with water by the works taken over.

39. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Governor in Council, and no tariff of charges for water furnished by any company shall come into operation until the same has been approved by the Governor in Council.

40. Any company authorized under this Act may issue bonds, debentures or other securities the amount of the subscribed capital, or double the amount of the paid-up capital, whichever may be the smaller amount.

41. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation, and shall dispose thereof within fifteen years after its acquisition, otherwise such lands shall revert to the Crown.

42. Any company authorized under this Act may for the purposes of its undertaking construct or acquire electric telegraph and telephone lines or any other contrivances for transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section [illegible] of this Act.

43. The Governor in Council may—

Define the manner in which the measurement of water shall be arrived at.

Define the duty of water according to locality and soil.

Define the portion of the year during which water shall be supplied for irrigation.

Fix the license fee or charge to be paid by companies applying for registration of water rights or for authority to engage in irrigation or other works under this Act which fees or charges may be varied according to the capital employed or volume of water diverted.

Regulate the extent of diversion from rivers, streams, lakes or other waters.

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other water under the authority of this Act.

Regulate from time to time the water rates which may be charged by companies and the publication of tariffs of rates.

Prescribe forms to be used in proceedings under this Act.

Impose penalties for violations of any regulation made under authority of this Act which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both.

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals or under either or both systems.

Authorize some person or officer whose decision shall be final and without appeal to decide in cases of dispute as to what constitutes surplus water as mentioned in clause [illegible] of this Act.

Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise, and for which no provision is made in this Act; and further make any regulations which are considered necessary to give the provisions of this Act full effect; and from time to time, alter or revoke any orders or regulations made in respect of such provisions, and make others in their stead.

44. All regulations made by the Governor in Council under this Act shall be published in the *Canada Gazette* and shall be laid before both houses of Parliament within the first fifteen days of the Session next after the date thereof.

45. Any companies already formed to promote irrigation in the North-west Territories shall be subject to all the provisions of this Act, except so far as the powers mentioned in section 40 of this Act are concerned.

Prescribe forms to be used in proceedings under this Act.

Impose penalties for violations of any regulation made under authority of this Act which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both.

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals or under either or both systems.

Authorize some person or officer whose decision shall be final and without appeal to decide in cases of dispute as to what constitutes surplus water as mentioned in clause of this Act.

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